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8 Attorney for plaintiff  
9 Integon National Insurance Company

10 UNITED STATES DISTRICT COURT  
11 EASTERN DISTRICT OF CALIFORNIA  
12

13 Integon National Insurance  
14 Company,

15 Plaintiff,

16 v.

17 Robert Hutsell, Jason May, The  
18 Mendiburu Magic Foundation  
19 Against Cancer, and D&E Suburu  
20 Family Limited Partnership,

21 Defendants.  
22  
23  
24  
25  
26  
27  
28

Case No. 1:20-CV-00490-NONE-JLT

**Joint Stipulation to Stay  
of Action; Order Granting  
Stipulation**

**(Doc. 22)**

## RECITALS

1. All defendants have been served with plaintiff's complaint.

2. With the exception of Robert Hutsell, all defendants have either had their default entered or been voluntarily dismissed.

3. Roberts Hutsell's response to the complaint is due on or before August 21, 2020.

2. The scheduling conference is currently set for September 21, 2020.

3. This is a declaratory relief case. At issue is whether plaintiff, the homeowner's insurer for Robert Hutsell, has a duty to defend or indemnify Mr. Hutsell against bodily injury claims by defendant Jason May in a pending California Superior Court state court action, styled *May v. Hutsell et al.*, case no. BCV-19-103615 in Kern County Superior Court. The claims in the state court action arise out of a May 11, 2019 altercation between Robert Hutsell and Jason May at a concert event in Bakersfield.

4. Robert Hutsell is also a defendant in a pending criminal case in California Superior Court, styled *People v. Hutsell*, case no. BF177517A in Kern County Superior Court. The claims in the criminal case arise out of the same May 11, 2019 altercation between Robert Hutsell and Jason May.

5. In this declaratory relief case, the parties anticipate Robert Hutsell may have to provide responses to discovery and possibly testify by way of declaration, deposition, and at trial. Mr. Hutsell intends to assert his Fifth Amendment right in connection with any such responses and testimony.

6. Given the pending criminal case and for other reasons, the parties believe this declaratory relief case should be stayed for all purposes until the criminal case has been finally resolved as against Robert Hutsell. In the event the state court action resolves before the criminal case has been finally resolved, or in the event the criminal case has been finally resolved in advance of the state court action, the

1 parties agree further consideration of whether the stay should remain in effect  
2 should be addressed to this court.

3 **STIPULATION**

4 Accordingly, plaintiff and Robert Hutsell, through their respective counsel,  
5 hereby stipulate to a stay of this case for all purposes until the criminal case has  
6 been finally resolved as against Robert Hutsell. In the event the state court action  
7 resolves before the criminal case has been finally resolved, or in the event the  
8 criminal case has been finally resolved in advance of the state court action, the  
9 parties agree further consideration of whether the stay should remain in effect  
10 should be addressed to this court. The parties also request the court issue an order  
11 (1) imposing a stay, (2) setting a follow-up status conference, and (3) requiring  
12 Robert Hutsell file a response to the complaint within 30 days after the stay is  
13 lifted.

14  
15 IT IS SO STIPULATED.

16  
17 August 7, 2020

PATRICK HOWE LAW, APC

18 By: /s/ Patrick M. Howe  
19 Patrick M. Howe  
20 Attorney for plaintiff Integon  
21 National Insurance Company

22 August 7, 2020

WILKINS, DROLSHAGEN &  
23 CZESHINSKI LLP

24 By: /s/ James H. Wilkins  
25 James H. Wilkins  
26 Attorneys for defendant Robert  
27 Hutsell

28 (Signature authorized on August 8,  
2020)

**ORDER**

The court has considered the above stipulation. Good cause appearing, the Court GRANTS the stipulation to stay the action and ORDERS:

1. Except for the order adopting or rejecting the findings and recommendations to grant default judgment against Jason May (Doc. 21), the court STAYS this action;

2. Within 120 days and every 120 days thereafter and within 14 days after the criminal case against Mr. Hutsell completes at the trial level, counsel SHALL file a joint report detailing the status of relevant matters and whether the stay should be lifted;

3. All pending dates are vacated.

IT IS SO ORDERED.

Dated: August 7, 2020

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE